

REMARKS

Claims 1-5, 11-14, 16, 17, 21 and 22 are currently pending in the present invention.

In an *Ex Parte* Quayle Action mailed January 15, 2003, the Examiner indicated that all claims are allowed, but that some formal matters remained.

The Abstract has been amended to delete text regarding title, company data, agent and inventor, as required by the Examiner.

The Drawing (Figure 1) was previously amended to delete the numbers corresponding to drawing elements 17, 20 and 21. This amendment was made in a *Submission of Corrected Drawing* filed with the Official Draftsperson on October 23, 2002, made in addition to a *Response to Examiner's Non-Final Action* filed that same date. In order to expedite allowance of the present application, applicant submits herewith the following documents:

- (i) Exhibit A, a copy of Figure 1 as originally filed with the present application on October 23, 2002, with applicant's desired amendments marked in red; and
- (ii) Exhibit B, a clean copy of proposed Figure 1, incorporating applicant's proposed changes as of October 23, 2002.

As seen from applicant's proposed changes, Figure 1 has been amended to cancel, *inter alia*, the numbers corresponding to items 17, 20 and 21.

With regard to the description of element 2 as a "flow meter," applicant submits that this term is fully supported in the disclosure. The Specification states that the flow rate of the stream of F32 in the present invention can be determined without excessive difficulty by a person skilled in the art who is competent in chemical engineering (*Specification*, p. 9, lines 1-7). The Specification further states that certain parameters of the plant are well known to those skilled in the art, among them the flow rate of the inert flushing gas (*Specification*, p. 10, lines 23-27). Throughout the Examples, flow rate is specified. *See, e.g.*, Example 1, page 14, line 3

which specifies a “flow rate of 44 L/h.” *See also* Examples 2-4, which incorporate experimental conditions of Example 1, including the specified flow rate. Therefore, controlling, *inter alia*, the flow rate allows for achievement of the objectives of the present invention.

Based on the disclosure of the present invention, one of ordinary skill in the art of chemical engineering would know that the flow rate of the stream is an important factor in chemical engineering process and plant design applications, and therefore would know that element 2 in Figure 1 is a flow meter. Additionally, element 2 is located at the beginning of the process, between the membrane pump (element 1) through which the dry F32 gas flows, and the humidifier (elements 3 and 4) in which liquid water is introduced into the system. (*See also* Specification, page 14, lines 10-19). One of ordinary skill in the art of chemical engineering would know that such a location and configuration are consistent with achieving the objectives of the present invention, upon review of the disclosure.

Applicant submits that the amendment to include in the Specification a description of element 2 does not constitute new matter, because the amendment to the Specification was made merely to conform to the drawing. It is a “familiar rule that the drawings and the specification may be amended to conform to each other and that the added matter will not be deemed technical ‘new matter’ within the prohibition of the law.” *In re Heinle*, 342 F.2d 1001, 1173 (CCPA 1965). “[U]nder proper circumstances, drawings alone may provide a ‘written description’ of an invention as required by § 112.” *Vas-Cath Inc. v. Mahurkar*, 935 F.2d 1555, 1565 (Fed. Cir. 1991). Because element 2 was present in Figure 1 as filed (*see* Exhibit A), and because, as discussed above, one of ordinary skill in the art of chemical engineering would know that element 2 is a flow meter, applicant respectfully submits that amending the Specification to include a description of element 2 as such does not constitute new matter.

CONCLUSION

In view of the above amendments and remarks, it is believed that the present application is in condition for allowance, early notice of which is earnestly sought.

No fee is believed to be due for this Response. However, if any fee is required, please charge such fee to Pennie & Edmonds Deposit Account No. 16-1150.

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Respectfully submitted,

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